

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN

KOLU STEVENS;  
PATRICK GREENHOE; and  
CLAUDETTE GREENHOE;  
Plaintiffs,

Case No.: 18-cv-757  
Honorable Paul L. Maloney

v.

MILTON L. MACK, JR., in his official capacity as the Administrator of the Michigan State Court Administrative Office;  
KIM B. MEAD, in his official capacity as Bay County Probate Court Administrator;  
WILLIAM M. HEFFERAN, in his official capacity as Antrim County Circuit Court – Family Division Administrator,  
Defendants

**EX PARTE MOTION**

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**EX PARTE MOTION FOR LEAVE TO GIVE  
NOTICE OF SUPPLEMENTAL AUTHORITY**

NOW COMES Plaintiffs, by counsel, and moves for leave to provide new supplemental authority regarding the Plaintiffs' corrected objections (**ECF No. 35**) to the magistrate's improper use of the "*Rooker-Feldman* doctrine" in its *Report and*

*Recommendation (ECF No. 33).* On February 26, 2020, the Sixth Circuit issued a published decision in *VanderKodde v. Mary Jane Elliott, P.C.*, CA6 Case Nos. 19-1091/1127/1128, \_\_ F.3d \_\_ (6th Cir. 2020).<sup>1</sup> That decision explains that *Rooker-Feldman* does not apply when “the plaintiff’s injuries stemmed from the defendant’s conduct, not the state-court judgment” even if “a party attempts to litigate in federal court a matter previously litigated in state court.”

Judge Sutton’s concurrence provides even more colorful and useful direction to this Court—“*Rooker-Feldman* is back to its old tricks of interfering with efforts to vindicate federal rights and misleading federal courts into thinking they have no jurisdiction over cases Congress empowered them to decide.” As essentially (but less colorfully) argued by Plaintiffs, “lawyers” like those for these Defendants “continue to invoke the rule and judges continue to dismiss federal actions under it” in an erroneous fashion. And most importantly, Judge Sutton explains that “[a]bsent a claim seeking review of a final state court judgment, a federal court tempted to dismiss a case under *Rooker-Feldman* should do one thing: Stop.” (emphasis added).

## BRIEF IN SUPPORT

Courts of the Western District of Michigan regularly and consistently allow, in its individualized discretion, leave to file supplemental authority which assists the Court with resolving pending legal issues. E.g. *Hertel v. Mtg. Electronic Registration Sys.*, Case No. 12-cv-174, 2013 U.S. Dist. LEXIS 63454, at fn.11 (WD Mich, May 3, 2013). Such discretion is asked to be exercised here.

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<sup>1</sup> A copy can be downloaded at <https://www.opn.ca6.uscourts.gov/opinions.pdf/20a0057p-06.pdf>.

**RELIEF REQUESTED**

WHEREFORE, the Court is requested to enter an order receiving *VanderKodde v. Mary Jane Elliott, P.C.* as precedentially-binding supplemental authority. A copy is attached or may be downloaded at <https://www.opn.ca6.uscourts.gov/opinions.pdf/20a0057p-06.pdf>.

Date: February 26, 2020

RESPECTFULLY SUBMITTED:

/s/ Philip L. Ellison  
**OUTSIDE LEGAL COUNSEL PLC**  
**PHILIP L. ELLISON (P74117)**  
Counsel for Plaintiffs

**CERTIFICATE OF SERVICE**

I, the undersigned attorney of record, hereby certify that on the date stated below, I electronically filed the foregoing with the Clerk of the Court using the ECF system which will send notification of such filing to all counsel or parties of record.

Date: February 26, 2020

RESPECTFULLY SUBMITTED:

/s/ Philip L. Ellison

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**PHILIP L. ELLISON (P74117)**  
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